

**IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION**

D&T PARTNERS, LLC, successor-in-interest to ACET Venture Partners, LLC, <i>et al</i>	§ § § §	
<i>Plaintiff,</i>	§ § § §	Civil Cause: 3:21-cv-1171-B
v.	§ § § §	
BAYMARK PARTNERS, LP, <i>et al.</i> ,	§ § §	
<i>Defendants.</i>	§ § §	

**WINDSPEED EMPLOYEES' MOTION TO DISMISS SECOND
AMENDED COMPLAINT CLAIMS PURSUANT TO RULE 12(b)(6)**

TO THE HON. JANE J. BOYLE;
UNITED STATES DISTRICT JUDGE:

COMES NOW in this cause defendants Ms. Zhexian Lin (“Lin”), Ms. Dana Marie Tomerlin (“Tomerlin”), Ms. Padasamai Vattana (“Vattana”); Ms. Vanessa Torres (“Torres” and together with Lin, Tomerlin and Vattana the “Windspeed Employees”), and files this, their *Windspeed Employees’ Motion to Dismiss Second Amended Complaint Claims Pursuant to Rule 12(b)(6)* (the “Motion”). In support of the Motion, the Windspeed Employees would respectfully show the Court as follows:

I. JURISDICTION AND VENUE

1. This Court has jurisdiction over the controversy under 28 U.S.C. § 1332.
2. Venue is proper in the Northern District of Texas, Dallas Division, under 28 U.S.C. § 1391(b)(2) because a substantial part of the events and omissions that give rise to the controversy occurred in this Division and District. The statutory predicate for this Motion is FEDERAL RULE OF CIVIL PROCEDURE 12(b)(6).

II. RELIEF REQUESTED AND BASIS THEREFORE

3. Pursuant to FEDERAL RULE OF CIVIL PROCEDURE 12(b)(6), this Motion seeks to dismiss all claims asserted by Plaintiffs, directly and derivatively against the Windspeed Employees. Specifically, the Windspeed Employees request dismissal with prejudice of the RICO claims asserted against them in the Plaintiff's Second Amended Complaint. Further, the Windspeed Employees request dismissal with prejudice of the state law claims asserted in the Second Amended Complaint against them pursuant to Rule 12(b)(6), or in the alternative the Court decline supplemental jurisdiction over those claims upon the dismissal of the RICO claims.

4. The bases for these requests for relief is included in the accompanying *Windspeed Employees' Brief in Support of Motion to Dismiss Second Amended Complaint Claims Pursuant to Rule 12(b)(6)* (the "Brief").

III. CONCLUSION AND PRAYER

WHEREFORE, PREMISES CONSIDERED, the Windspeed Employees respectfully pray this Court grant the Motion and dismiss with prejudice all causes of action asserted by Plaintiffs. The Windspeed Employees further respectfully request any additional relief to which they may be justly entitled.

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Dated: July 22, 2022
Dallas, Texas

HIGIER ALLEN & LAUTIN, PC

By: /s/ Jason T. Rodriguez
Jason T. Rodriguez
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VATTANA; MS. VANESSA TORRES**

CERTIFICATE OF SERVICE

I hereby certify that on the 22nd day of July 2022, a true and correct copy of the foregoing document was served *via* the Court's ECF system and by email to the following parties.

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